

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Incentive Auction Task Force and Media)	MB Docket No. 16-306
Bureau Seek Comment on Post-Incentive)	
Auction Transition Scheduling Plan)	GN Docket No. 12-268
)	
)	

REPLY COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ submits these reply comments in response to the Public Notice (“Notice”)² in the above-captioned proceedings, in which the Incentive Auction Task Force and Media Bureau (“Bureau”) seek comment on a proposed transition schedule (“Transition Plan”) for the Federal Communications Commission’s (“FCC” or “Commission”) broadcast incentive auction.

CCA agrees that making wireless spectrum available as promptly as possible should remain the top objective throughout the post-auction transition and supports the Commission’s four main goals of its Transition Plan. Spectrum is the lifeblood of the wireless industry and wireless providers have been planning to acquire this spectrum since the Spectrum Act was enacted in 2012. Despite this, numerous broadcasters seem to be seeking to impede prompt availability of 600 MHz spectrum by calling on the Bureau to remove clearing of the band as its

¹ CCA is the leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 subscribers, to regional and national providers serving millions of customers. CCA also represents approximately 200 associate members consisting of small businesses, vendors, and suppliers that provide products and services throughout the mobile communications supply chain.

² *Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Schedule*, MB Docket No. 16-306, GN Docket No. 12-268, Public Notice, DA 16-1095, ¶ 2 (rel. Sept. 30, 2016) (“Notice”).

primary objective for the Transition Plan, and asking for additional time beyond the 39-month timeframe to construct facilities, among other requests. CCA encourages the Commission to reject these appeals as wireless carriers need access to this spectrum now. Regarding post-auction activities, however, CCA echoes broadcasters' requests to relax the Commission's prohibited communications rules with respect to Transition Plan coordination. In recognizing the dire need for suitable and available wireless spectrum, the Bureau must remain focused on clearing the 600 MHz band as soon as possible, no later than the FCC-established 39-month timeline, and in the most efficient, seamless manner possible.

I. EFFICIENTLY CLEARING THE 600 MHZ BAND MUST REMAIN THE TOP OBJECTIVE THROUGHOUT THE TRANSITION.

CCA continues to recommend the Commission prioritize clearing the 600 MHz band throughout the Transition Plan, as envisioned by the Bureau.³ The record highlights wireless providers' need for a prompt transition and supports use of temporary channels, facilities, and channel sharing to afford broadcasters ample opportunities to efficiently clear the 600 MHz band.⁴ As T-Mobile recognizes, these techniques "could be implemented voluntarily by broadcasters to customize approaches that work best for them to clear the spectrum quickly and efficiently and in ways that do not delay or impair the FCC's overall scheduled transition plan."⁵

³ *Id.* Appendix A, ¶ 20 at p. 9 (specifically seeking to prioritize "[a]ssign[ing] U.S. stations whose pre-auction channels are in the 600 MHz band to earlier phases in order to clear the 600 MHz band as quickly as possible, while simultaneously assigning all Canadian stations and U.S. stations whose pre-auction channel is in the remaining television bands (U.S. TV-band stations) to later phases, where possible."); *see* Comments of Competitive Carriers Association 5 (filed Oct. 31, 2016) ("CCA Comments").

⁴ *See, e.g.*, CCA Comments 4-9; Comments of T-Mobile USA, Inc. 4-11 (filed Oct. 31, 2016) ("T-Mobile Comments"); Comments of CTIA 7 (filed Oct. 31, 2016) ("CTIA Comments").

⁵ T-Mobile Comments ii.

To that end, CCA reiterates alternative actions the Bureau should consider to expeditiously clear the 600 MHz band. Specifically, CCA agrees the FCC should work with stakeholders to ensure sufficient flexibility is afforded when necessary; for example, stations should have the ability to test equipment prior to commencing operations on their new assigned channel. Additionally, the Bureau should create a transition environment that permits use of auxiliary facilities and equipment when feasible.⁶ The Bureau also should encourage voluntary agreements to minimize consumer interference and recognize practical realities like the safety of tower crews.⁷ In addition to these considerations, however, the record is replete with wireless carriers voicing the need for suitable and available mobile wireless spectrum as soon as practically possible. Indeed, spectrum is critical to the provision of mobile wireless service, as “[i]ncumbent service providers may need additional spectrum to increase their coverage or capacity, while new entrants need access to spectrum to enter a geographic area.”⁸ Spectrum is a

⁶ Similarly, CCA supports the Commission’s 600 MHz band plan as adopted in the *Incentive Auction Report and Order*, which seeks to expeditiously clear broadcast television stations from channel 51 to minimize interference and promote buildout of Lower 700 MHz A block licenses. Prioritizing relocation of these stations will better support competitive carriers’ maximization of spectrum licenses, and allow license holders to fully capitalize on investments. *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567 ¶ 737 (2014) (“*Incentive Auction Report and Order*”) affirmed, *Nat’l Ass’n of Broadcasters v. F.C.C.*, 789 F.3d 165 (D.C. Cir. 2015).

⁷ See, e.g., Comments of the National Association of Broadcasters 13 (filed Oct. 31, 2016) (“NAB Comments”); Comments of Cordillera Communications, Cox Media Group, Meredith Corporation 3 (filed Oct. 31, 2016) (“Cordillera et al. Comments”). Cordillera et al. seek to prioritize “maximiz[ing] the health and safety of tower crews and the homes and businesses that are in close proximity to towers.” Cordillera et al. Comments 3. CCA agrees that the safety of tower crews is important, and should be not taken lightly by the Bureau. Broadcasters and tower crews should work collaboratively to ensure that the safety of these crews are protected. CCA believes additional protections can be adequately provided through the use of an enhanced standard as suggested in CCA’s initial comments; the Bureau should “consider whether a waiver request is directly related to the safety of crews and personnel relocating or constructing new towers.” CCA Comments 10.

⁸ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless*,

finite resource, and under-1-GHz “beachfront spectrum,” is especially scarce. As CCA has continuously noted, the 600 MHz band represents “one of the only remaining opportunities at this time (other than secondary market transactions) for wireless licensees to acquire such spectrum.”⁹

As a result, clearing the 600 MHz band should remain the driving force of the auction, as directed by Congress.¹⁰ In launching this proceeding, the FCC recognized that the “country faces a major challenge to ensure that the speed, capacity, and accessibility of our wireless networks keeps pace with [the] demands in the years ahead [m]eeting this challenge is essential to continuing U.S. leadership in technological innovation, growing our economy, and maintaining our global competitiveness.”¹¹ The Notice’s proposal, therefore, aptly “recognizes the urgency for clearance of the television spectrum” and adequately addresses clearing the 600 MHz band.

Similarly, the Bureau should reject requests to allow full power stations to squat on spectrum until a licensee has “commenced building out the spectrum those stations currently use.”¹² On their face, these suggestions defy practical realities required to effectuate buildout, such as vacating spectrum prior to operations, and will unnecessarily delay progress toward

Including Commercial Mobile Services, Nineteenth Report, DA 16-1061, ¶ 49 (2016) (“*Nineteenth Mobile Competition Report*”).

⁹ CCA Comments 2.

¹⁰ In fact, the first paragraph of the *Incentive Auction Report and Order* recognizes that “[t]he incentive auction is a new tool authorized by Congress to help the Commission meet the Nation’s accelerating spectrum needs.” *Incentive Auction Report and Order* ¶ 1.

¹¹ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Notice of Proposed Rulemaking, 27 FCC Rcd 12357 ¶ 1 (2012).

¹² See NAB Comments 4.

concluding all phases of the auction. CCA urges the Commission to remain focused on clearing the spectrum reallocated for mobile broadband services.

II. THE BUREAU MUST REJECT REQUESTS TO EXTEND THE 39-MONTH TRANSITION TIMELINE.

CCA continues to support the statutorily-driven 39-month timeline as part of its post-incentive auction transition. Indeed, in considering the critical nature of the spectrum opportunities that lie ahead “[f]orward auction license winners expect that the 600 MHz spectrum will clear rapidly and, in the worst case, no more than 39 months after the completion of the incentive auction.”¹³ However, some broadcasters discount this timeframe and argue that there should be no “rush” to complete the transition because “wireless bidders are not showing any overwhelming enthusiasm for purchasing broadcast spectrum.”¹⁴ This assertion entirely fails to provide explanation for this assessment and yet suggests “doubling the current 39-month time frame” as a result.¹⁵ In addition, several commenters representing broadcaster interests argue that the 39-month transition period is not a sufficient timeframe for broadcasters to construct facilities due to potential delays not accounted for by tools in the Transition Plan, such as weather, zoning processes, FAA approvals, and delivery and installation of equipment, and urge the Bureau to increase the time provided for construction activities.¹⁶

¹³ Comments of CTIA 7 (urging the Commission to maintain the 39-month relocation timing).

¹⁴ Comments of Block Communications, Inc., Lima Communications Corporation, Independence Television Company, WAND(TV) Partnership, Idaho Independent Television, Inc., and West Central Ohio Broadcasting, Inc. 3 (filed Oct. 31, 2016) (“Block Stations Comments”).

¹⁵ *Id.*

¹⁶ *See, e.g.*, NAB Comments 9; Comments of Sinclair Broadcasting 3 (filed Oct. 31, 2016); Comments of E.W. Scripps Company 3-4 (filed Oct. 31, 2016); Comments of California Oregon Broadcasting, Inc. et al. 11-13 (filed Oct. 31, 2016) (“California Oregon Broadcasting Comments”).

CCA reiterates that no blanket extension of the FCC-established 39-month transition period is warranted, for any of the reasons offered by competing stakeholders in this proceeding.¹⁷ As thoroughly discussed on the record and further reiterated above, wireless providers need prompt access to more suitable and available spectrum. And, because the auction is being conducted in an anonymous fashion, bidders and interested parties do not have an accurate understanding of the supply and demand, other than recognizing that two market forces have not yet been met. Indeed, as CTIA points out, the incentive auction was “always expected . . . to be a multi-staged process.”¹⁸ Furthermore, analysts explain that “this is all taking place very much by design; the auction is working as planned in an attempt to find a level of spectrum clearing where supply matches demand.”¹⁹ The unsupported assertions offered by stakeholders like Block Stations’ comments simply are not valid.

Moreover, CCA continues to emphasize that once the 39-month period concludes, broadcasters and tower companies will have had much longer than 39 months to prepare for the transition’s conclusion.²⁰ Interested parties were put on notice the moment the Spectrum Act was enacted on February 22, 2012, which identified the broadcast television bands for auction and relocation.²¹ Even with conservative estimates, broadcasters have had over eight years of preparation for this transition.²² While broadcasters may argue that a potential “bottleneck”

¹⁷ See Comments of CCA 3-4.

¹⁸ Dan Meyer, *FCC 600 MHz Auction Stage 2 Ends After 1 Round; On To Stage 3*, RCRWIRELESS NEWS, Oct. 19, 2016, available at <http://www.rcrwireless.com/20161019/policy/fcc-600-mhz-auction-stage-2-ends-1-round-stage-3-tag2>.

¹⁹ *Id.*

²⁰ See Comments of CCA 3-4.

²¹ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012) (the “Spectrum Act”).

²² Meyer, *supra* note 18 (noting that analysts believe that “it remains likely the proceedings could continue for several more stages and well into next year.”); see also Marc Hand & Evran Kavlak,

could result from “finding a tower hasn’t been maintained and needs repairs,”²³ in reality, they have had ample opportunity to prepare for a future deadline, and thus no further delays should occur at this point absent an enhanced waiver.

Desires to unnecessarily procrastinate the post-auction transition should be treated as that, and promptly dismissed by the Commission. As noted, it is not just broadcasters who would be affected by a delay; indeed, any unnecessary postponement will impact wireless licensees’ deployment of valuable spectrum, and ultimately, affect competitive services to consumers.

III. THE BUREAU SHOULD REJECT ADDITIONAL DISPLACEMENT RIGHTS AND PROTECTIONS FOR LPTV OR TV TRANSLATOR STATIONS.

The Bureau should similarly reject requests to provide low-power television (“LPTV”) and TV Translator stations with certain “displacement relief” during the post-auction transition.²⁴ Through such requests, LPTV and TV Translator stations continue attempts to elevate their status to that of full power or Class A stations, despite the fact that neither the FCC nor Congress intended to place these stations on a level playing field.²⁵ CCA notes concern that decisions by the Bureau to afford these stations additional and unanticipated displacement relief could further

TV Spectrum Auction Enters Next Stage With New Bidding, Lower Prices, CURRENT, Sept. 30, 2016, available at <http://current.org/2016/09/tv-spectrum-auction-enters-next-stage-with-new-bidding-lower-prices/> (estimating that if the auction concludes as a result of Stage 3’s 108 MHz clearing target, it could close in early 2017. Further estimating that if Stage 3 fails and the auction closes in Stage 4, “it will probably run into spring of 2017.”); Colin Gibbs, *Wheeler Tells Legislators Incentive Auction Could Extend in 2017*, FIERCEWIRELESS, Apr. 5, 2016, available at <http://www.fiercewireless.com/wireless/wheeler-tells-legislators-incentive-auction-could-extend-into-2017>.

²³ Comments of RIO Steel & Tower, LTD. 2 (filed Oct. 31, 2016) (“RIO Steel & Tower Comments”); Comments of Tower Engineering Professionals, Inc. & TEP Design Build 3 (filed Oct 31, 2016) (“TEP Comments”).

²⁴ See Comments of Northeast Gospel Broadcasting, Inc., et al. (filed Oct. 31, 2016) (“LPTV & Translator Parties Comments”).

²⁵ See *Incentive Auction Report and Order* ¶¶ 184-86.

delay clearing the 600 MHz spectrum. Therefore, the Bureau should refrain from offering any further protections to these stations at this time.

IV. THE RECORD STRONGLY SUPPORTS RELAXING PROHIBITED COMMUNICATIONS RULES TO BETTER FACILITATE A SEAMLESS TRANSITION.

Finally, CCA supports the overwhelming majority of commenters who urge the Commission to lift or otherwise relax the prohibition on communications under the FCC's anti-collusion rules with respect to Transition Plan activity.²⁶ Indeed, wireless providers, broadcasters and tower companies alike note the importance of corresponding with key players in the post-transition landscape without the chilling effect of a potential anti-collusion violation or other regulatory harm. CCA continues to support promoting open coordination about post-auction issues between certain parties to ensure a successful and timely transition.

²⁶ See, e.g., CCA Comments 11; Comments of T-Mobile 12-22; NAB Comments 12-13; Cordillera Communications et al. Comments 17; California Oregon et al. Comments 6-10; TEP Comments 2-3; RIO Steel & Tower Comments. 1; Comments of Grundy Telecom Integration Inc. 2 (filed Oct. 31, 2016).

V. CONCLUSION.

CCA continues to support the Commission's four main goals of the transition:

(1) clearing the 600 MHz band as quickly as possible; (2) minimizing the number of times a designated market area must rescan; (3) minimizing the number of linked-stations; and (4) minimizing the difference between the number of stations in the largest transition phase and the smallest transition phase. CCA respectfully requests that the Bureau consider the foregoing recommendations to facilitate a prompt and efficient post-auction transition within the statutorily-driven 39-month period that will help the FCC fulfill its four transition goals.

Respectfully submitted,

/s/ Rebecca Murphy Thompson

Steven K. Berry

Rebecca Murphy Thompson

Courtney Neville

COMPETITIVE CARRIERS ASSOCIATION

805 15th Street NW, Suite 401

Washington, DC 20005

November 15, 2016